



Town of Arlington, MA Redevelopment Board

Agenda & Meeting Notice March 13, 2023

Per Board Rules and Regulations, public comments will be accepted during the public comment periods designated on the agenda. Written comments may be provided by email to cricker@town.arlington.ma.us by Monday, March 13, 2023 at 3:00 p.m. The Board requests that correspondence that includes visual information should be provided by Friday, March 10, 2023 at 12:00 p.m.

The Arlington Redevelopment Board will meet Monday, March 13, 2023 at 7:30 PM in the **Arlington Community Center, Main Hall, 27 Maple Street, Arlington, MA 02476**

1. Warrant Article Public Hearings for 2023 Annual Town Meeting

7:30 p.m.

- A brief introductory presentation will be provided for each article
- Board members will be provided time to ask questions and comment on each article
- The public will be provided opportunity to comment on each article

ARTICLE 32

ZONING BYLAW AMENDMENT / BUILD AFFORDABLE HOUSING ANYWHERE

To see if the Town will vote to amend the Zoning Bylaw so developments of 100% affordable housing may be built by right in all zones, with lower requirements as well; or take any action related thereto.

(Inserted at the request of Thomas J. Perkins and 10 registered voters)

ARTICLE 29

ZONING BYLAW AMENDMENT/ DOWNTOWN BUSINESS PARKING MINIMUMS

To see if the Town will vote to amend the Zoning Bylaw to completely remove the minimum parking requirements for all non-residential uses in the B5 District; or take any action related thereto.

(Inserted at the request of James Fleming and 10 registered voters)

ARTICLE 30

ZONING BYLAW AMENDMENT / ONE- AND TWO-FAMILY USABLE OPEN SPACE

To see if the Town will vote to amend the Zoning Bylaw to completely remove the usable open space requirement for one- and two-family uses; or take any action related thereto.

(Inserted at the request of James Fleming and 10 registered voters)

2. Open Forum

8:30 p.m. Except in unusual circumstances, any matter presented for consideration of the Board shall neither be acted upon, nor a decision made the night of the presentation. There is a three minute time limit to present a concern or request.

3. New Business

8:45 p.m.

4. Adjourn

9:00 p.m. Estimated



Town of Arlington, Massachusetts

Warrant Article Public Hearings for 2023 Annual Town Meeting

Summary:

7:30 p.m.

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(Inserted at the request of James Fleming and 10 registered voters)

ATTACHMENTS:

Type	File Name	Description
Reference Material	Agenda_Item_1_20230313_DPCD_Memo_to_ARB_re_warrant_article_32_29_and_30.pdf	DPCD Memo to ARB re warrant articles 32, 29, and 30
Reference Material	2023_Town_Meeting_-_Downtown_Business_Parking_Minimums.pdf	Downtown Business Parking Minimums
Reference Material	2023_Town_Meeting_-_One-_and_Two-Family_Usable_Open_Space.pdf	One and Two-Family Usable Open Space Fleming
Reference Material	Fleming Memo to ARB re Public Hearings - March 2023.pdf	Memo to ARB re Public

threshold percentage of deed-restricted affordable housing is provided as part of a development. A secondary benefit of amending the Zoning Bylaw through an affordable housing overlay is that an overlay can be implemented without needing to change the underlying zoning.

This Warrant Article partially addresses these recommendations; however, it attempts to do so through section by section revision of the bylaw instead of the development of an overlay district. Staff have questions regarding the suggested dimensional requirements, incentives, process, affordability thresholds, and whether some of the additional criteria proposed are potentially in conflict with the petitioner's desire to reduce barriers to the production of affordable housing. Staff additional are interested in whether affordable housing developers were consulted to ensure that the amendments would create the necessary regulatory conditions to encourage affordable housing development. The amendments provide some incentives, however there are a number of questions asked by the petitioner himself regarding whether the incentives are suitable. Answering these questions is important to understanding how the petitioner's goals—along with the goals of the HPP and the Affordable Housing Trust Action Plan—could be achieved.

The Housing Production Plan notes the high level of complexity of identifying the appropriate bonuses and reductions to produce an effective amendment. Additionally, the process of creating such an amendment entails public education, outreach to affordable housing developers, and assistance by a consultant with expertise in affordable housing and land use law to ensure that the incentives provided through a zoning amendment are sufficient to make all- or mostly-affordable projects economically feasible.

Staff are aware of a broader effort involving members of the Affordable Housing Trust and several resident/community groups to study and develop a recommendation for an affordable housing overlay, have encouraged and continue to encourage the petitioner to participate in this effort, as he brings important considerations and perspective to the challenge of producing affordable housing in Arlington.

Mr. Perkins provided staff with his proposed amendment as provided in the attached document. Staff have attempted to incorporate his proposal into the various sections of the Zoning Bylaw as noted below. For legibility, staff have moved Mr. Perkins in-text comments into footnotes prefaced by "Petitioner".

The petitioner requests that the Zoning Bylaw be and hereby is amended as follows:

Amend Section 2 (under "Definitions Associated with Affordable Housing"):

Fully Affordable Housing Development: The construction of a new building or buildings and/or the modification of an existing building or buildings resulting in single-family, two-family, three-family, townhouse, multifamily, duplex, or single-room occupancy within which each unit, dwelling or rooming¹, is an Affordable Unit. Such projects are subject to the standards, restrictions, and process set forth in Section 8.2.4 and elsewhere in this Zoning Bylaw.^{2 3}

Add Section 5.2.5:

5.2.5 Fully Affordable Housing Development

¹ Petitioner comment: Is this the correct wording to have it cover dwelling units and rooming units?

² Petitioner comment: Current definition requires max 60% AMI for rent and max 70% AMI for ownership. Not sure if those numbers will be reachable. Might want to create an alternate definition with looser standards.

³ Petitioner comment: This definition already means 100% of the units must be affordable; that could be explicitly stated to be clearer to those less familiar with reading codes, but would also be redundant.

Fully Affordable Housing Developments can be done in most districts and have a number of differences and exemptions detailed herein and elsewhere. They allow much higher density and different character than otherwise allowed in their district. Fully Affordable Housing Developments must be at least 120 feet from any other Fully Affordable Housing Development.⁴ Each Fully Affordable Housing Development must be built upon a single lot; it may not use multiple contiguous lots under one ownership.^{5 6 7}

Amend Section 5.4.2.A:

Add lines for “Fully Affordable Housing Development” in each of the following:

R District Lot Regulations⁸

District Use	Minimum Requirement		
	Minimum Lot Area (sq. ft.)	Minimum Lot Area per Unit (sq. ft.)	Minimum Lot Frontage (ft.)
R3			
<u>Fully Affordable Housing Development</u>	<u>5,000</u>	<u>----</u>	<u>45</u>
R4			
<u>Fully Affordable Housing Development</u>	<u>5,000</u>	<u>----</u>	<u>60</u>
R5			
<u>Fully Affordable Housing Development</u>	<u>5,000</u>	<u>----</u>	<u>60</u>
R6			
<u>Fully Affordable Housing Development</u>	<u>5,000</u>	<u>----</u>	<u>45</u>
R7			
<u>Fully Affordable Housing Development</u>	<u>10,000</u>	<u>----</u>	<u>70</u>

R District Yard and Open Space Requirements

District Use	Minimum Requirement		
	Front Yard (ft.)	Side Yard (ft.)	Rear Yard (ft.)
R0, R1			
<u>Fully Affordable Housing Development</u>	<u>10+(H/6)</u>	<u>10</u>	<u>10+(H/6)</u>
R2			
<u>Fully Affordable Housing Development</u>	<u>10+(H/6)</u>	<u>10</u>	<u>10+(H/6)</u>
R3			
<u>Fully Affordable Housing Development</u>	<u>10</u>	<u>10</u>	<u>10+(H/6)</u>
R4			
<u>Fully Affordable Housing Development</u>	<u>10+(H/6)</u>	<u>10</u>	<u>10+(H/6)</u>
R5			
<u>Fully Affordable Housing Development</u>	<u>15</u>	<u>10</u>	<u>10+(H/6)</u>
R6			

⁴ Petitioner comment: To prevent ghetto problems, 100-200 is probably a good range, may wish to include some pre-existing affordable housing, could focus more on the front than the back of the lot for determining minimum distance, or otherwise tweak formula based on street distance. Could use distance from any 40B SHI Units instead.

⁵ Petitioner comment: Do we need a 'does not include accessory structures, which are done under the normal rules for accessory structures clause?

⁶ Petitioner comment: Long term - monitor 5.3.3.A to see if any modifications need to be made to better support additionally primary housing structures on a lot.

⁷ Petitioner comment: Concern over new minimum side yards and interaction with 5.3.14.B. I don't mind, others may.

⁸ Petitioner comment: R0, R1, R2 require no change, as technically the dash means there is no minimum, or alternately a section could be added to clarify.

District Use	Minimum Requirement		
	Front Yard (ft.)	Side Yard (ft.)	Rear Yard (ft.)
Fully Affordable Housing Development	<u>10</u>	<u>10</u>	<u>10+(H/6)</u>
R7			
Fully Affordable Housing Development	<u>10+(H/6)</u>	<u>18</u>	<u>10+(H/6)</u>

R District Open Space and Lot Coverage Regulations

District Use	Minimum / Maximum Requirements		
	Landscaped Open Space (Min.)	Usable Open Space (Min.)	Maximum Lot Coverage
R0			
Fully Affordable Housing Development	<u>10%</u>	<u>15%</u>	<u>----</u>
R1			
Fully Affordable Housing Development	<u>10%</u>	<u>15%</u>	<u>----</u>
R2			
Fully Affordable Housing Development	<u>10%</u>	<u>15%</u>	<u>----</u>
R3			
Fully Affordable Housing Development	<u>10%</u>	<u>15%</u>	<u>----</u>
R4			
Fully Affordable Housing Development	<u>10%</u>	<u>15%</u>	<u>----</u>
R5			
Fully Affordable Housing Development	<u>10%</u>	<u>15%</u>	<u>----</u>
R6			
Fully Affordable Housing Development	<u>10%</u>	<u>15%</u>	<u>----</u>
R7			
Fully Affordable Housing Development	<u>10%</u>	<u>15%</u>	<u>----</u>

R District Building Height and Floor Area Ratio Regulations

District Use	Maximum Allowed		
	Maximum Height (ft.)	Maximum height (stories)	Maximum Floor Area Ratio (FAR)
R0, R1			
Fully Affordable Housing Development	<u>35</u>	<u>3</u>	<u>2.0</u>
R2			
Fully Affordable Housing Development	<u>35</u>	<u>3</u>	<u>2.0</u>
R3			
Fully Affordable Housing Development	<u>40</u>	<u>3.5</u>	<u>----</u>
R4			
Fully Affordable Housing Development	<u>40</u>	<u>3.5</u>	<u>----</u>
R5			
Fully Affordable Housing Development	<u>40</u>	<u>3.5</u>	<u>----</u>
R6			
Fully Affordable Housing Development	<u>45</u>	<u>4</u>	<u>----</u>
R7			
Fully Affordable Housing Development	<u>60</u>	<u>5.5</u>	<u>----</u>

Amend Section 5.4.2.B.6

- (6) Large Additions. No alteration or addition which increases the gross floor area of a building by the lesser of (a) 750 square feet or more, or (b) 50% or more of the building's gross floor

area on the date of application for a permit or because of cumulative alterations or additions during the previous two years, shall be allowed unless:

- The addition is constructed entirely within the existing foundation, or
- The Board of Appeals, acting pursuant to Section 3.3, finds that the alteration or addition is in harmony with other structures and uses in the vicinity.

In making its determination, the Board of Appeals shall consider, among other relevant facts, the proposed alteration or addition's dimensions and setbacks in relation to abutting structures and uses and its conformity to the purposes of this Bylaw as set forth in Section 1.2. **Error! Reference source not found.** The increase in gross floor area used to determine the applicability of this section shall only include additions outside the existing footprint of the building. This section shall not apply to a Fully Affordable Housing Development.^{9 10}

Add Section 5.4.2.B.9

- (9) Fully Affordable Housing Developments done in districts R0, R1, and R2 have no minimum lot area per unit, and may be built despite the districts normally not allowing dense housing or multiple separated residential buildings.

Amend Section 5.4.3

Use Regulations for Residential Districts

Class of Use	R0	R1	R2	R3	R4	R5	R6	R7
Residential								
<u>Fully Affordable Housing Development</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>

Amend Section 5.5.2.A

B District Lot Regulations

District Use	Minimum Requirement		
	Minimum Lot Area (sq. ft.)	Minimum Lot Area per Unit (sq. ft.)	Minimum Lot Frontage (ft.)
B1			
<u>Fully Affordable Housing Development</u>	<u>5,000</u>	<u>---</u>	<u>50</u>
B2			
<u>Fully Affordable Housing Development</u>	<u>5,000</u>	<u>---</u>	<u>50</u>
B2A			
<u>Fully Affordable Housing Development</u>	<u>6,000</u>	<u>---</u>	<u>50</u>
B3			
<u>Fully Affordable Housing Development</u>	<u>6,000</u>	<u>---</u>	<u>50</u>
B4			
<u>Fully Affordable Housing Development</u>	<u>6,000</u>	<u>---</u>	<u>50</u>
B5			
<u>Fully Affordable Housing Development</u>	<u>6,000</u>	<u>---</u>	<u>50</u>

⁹ Petitioner comment: Is section the right word? clause?

¹⁰ Petitioner comment: The below section may be removed, or it could be kept for clarity.

B District Yard and Open Space Requirements¹¹

District Use	Minimum Requirement		
	Front Yard (ft.)	Side Yard (ft.)	Rear Yard (ft.)
B1			
<u>Fully Affordable Housing Development</u>	<u>10+(H/6)</u>	<u>10</u>	<u>10+(H/6)</u> <u>Min. 15</u>
B2			
<u>Fully Affordable Housing Development</u>	<u>0</u>	<u>0</u>	<u>10+(H/6)</u> <u>Min. 15</u>
B2A			
<u>Fully Affordable Housing Development</u>	<u>0</u>	<u>0</u>	<u>10+(H/6)</u> <u>Min. 15</u>
B3			
<u>Fully Affordable Housing Development</u>	<u>0</u>	<u>0</u>	<u>10+(H/6)</u> <u>Min. 15</u>
B4			
<u>Fully Affordable Housing Development</u>	<u>0</u>	<u>0</u>	<u>10+(H/6)</u> <u>Min. 15</u>
B5			
<u>Fully Affordable Housing Development</u>	<u>0</u>	<u>0</u>	<u>10+(H/6)</u> <u>Min. 15</u>

B District Open Space and Lot Coverage

District Use	Minimum Requirement		
	Landscaped Open Space	Usable Open Space	Maximum Lot Coverage
B1			
<u>Fully Affordable Housing Development</u>	<u>10%</u>	<u>15%</u>	<u>----</u>
B2			
<u>Fully Affordable Housing Development</u>	<u>10%</u>	<u>15%</u>	<u>----</u>
B2A			
<u>Fully Affordable Housing Development</u>	<u>10%</u>	<u>15%</u>	<u>----</u>
B3			
<u>Fully Affordable Housing Development</u>	<u>10%</u>	<u>15%</u>	<u>----</u>
B4			
<u>Fully Affordable Housing Development</u>	<u>10%</u>	<u>15%</u>	<u>----</u>
B5			
<u>Fully Affordable Housing Development</u>	<u>10%</u>	<u>15%</u>	<u>----</u>

B District Building Height and Floor Area Ratio Regulations

District Use	Minimum Requirement		
	Maximum Height (ft.)	Maximum height (stories)	Maximum Floor Area Ratio (FAR)
B1			
<u>Fully Affordable Housing Development</u>	<u>35</u>	<u>3</u>	<u>2.0</u>
B2			
<u>Fully Affordable Housing Development</u>	<u>50</u>	<u>4</u>	<u>----</u>

¹¹ Petitioner comment: Why would housing need the setbacks for front yard and such? State sanitary code natural light requirements exist to cover light needs.

	Minimum Requirement		
B2A			
<u>Fully Affordable Housing Development</u>	<u>60</u>	<u>5</u>	<u>----</u>
B3			
<u>Fully Affordable Housing Development</u>	<u>60</u>	<u>5</u>	<u>----</u>
B4			
<u>Fully Affordable Housing Development</u>	<u>60</u>	<u>5</u>	<u>----</u>
B5			
<u>Fully Affordable Housing Development</u>	<u>75</u>	<u>7</u>	<u>----</u>

Amend Section 5.5.2.B

- (4) Standards
Transparency and access. In the Business Districts, the following requirements apply to all new construction, additions over 50% of the existing footprint, or redevelopment: Section 5.5.2.B.4 does not apply to Fully Affordable Housing Developments.

Amend Section 5.5.3

“Fully Affordable Housing Development” receives a Y for all B districts¹²

Class of Use	B1	B2	B2A	B3	B4	B5
Residential						
<u>Fully Affordable Housing Development</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>

Amend Section 6.1.4

6.1.4 Table of Off-Street Parking Regulations

The minimum number of off-street parking and loading spaces shall be as set forth in the following table. Off-street parking requirements for a use not specifically listed below shall be as determined by the Building Inspector based on a listed use of similar characteristics of parking demand generation.

Use	Minimum Number of Spaces
Residential Uses	

¹² Petitioner comment: Is it worth doing writeups for I or any of the other zones? While I can be residential, how do we distinguish areas that would have unpleasant neighbors from others? There's a sad and long history of poor people getting stuck next to industry in places where it means they suffer more from pollution. One could make I areas SP-only for affordable projects, but that kinda defeats the point of having them all be Y in eligible districts. I'm not that familiar with the town's inventory of I and which ones could potentially be converted into residences.

Fully Affordable Housing Development

1 space per 5 dwelling units^{13 14 15}

Amend Section 6.1.12

- D. The minimum number of bicycle parking spaces shall be as set forth in the following table. The computed number of bicycle parking spaces will be rounded up to the nearest whole number. Bicycle parking spaces shall be provided in addition to the off-street parking space requirements of Section 6.1.4.

Use	Minimum Number of Long-Term Bicycle Parking Spaces	Minimum Number of Short-Term Bicycle Parking Spaces
Residential Uses		
Apartment building <u>and Fully Affordable Housing Development</u>	1.5 spaces per dwelling unit	0.10 spaces per dwelling unit

Amend Section 8.2

8.2 Affordable Housing Requirements¹⁶

8.2.1 Purpose

The purpose of this Section 8.2 is to:

- A. Promote the public health, safety and welfare by encouraging the expansion and improvement of the town's housing stock, especially its affordable housing;
- B. Provide for a full range of housing choices for households of all incomes, ages, and sizes;
- C. Minimize the displacement of lower-income Arlington residents; and
- D. Increase the production of affordable housing to meet employment needs.

~~8.2.2~~ Administration¹⁷

¹³ Petitioner comment: I wonder if even that is too many, the idea is that the people using these properties basically won't have cars of their own on average, or if they do, they'll expect to pay a surcharge to have a parking spot. I don't have a clear sense of the rate at which parking spaces are utilized by non-residents. It'd be a waste to require extra parking and have it sit there unused. No spaces should be available for residents long-term use unless they pay for a spot. Let the developers decide whether they can manage to rent units that don't have parking spots if they choose to develop in that way.

¹⁴ Petitioner comment: Consider allowing a reduction if the area along the frontage of the lot is generally available; probably best measured by if it has no meters or signs restricting parking by hours or other characteristics. ie in residential side streets that are far from the notable points in town, there's often plenty of street parking for visitors. It's unclear how much of the parking requirements exist to accommodate visitors, and how much is to accommodate the users of the property.

¹⁵ Petitioner comment: Should we require that some of the spaces be designated for visitors and loading/unloading?

¹⁶ Petitioner comment: Section 8.2 is already about affordable housing; if this proposal is not put there it may be confusing to have the section about affordable housing be missing one of the parts of the affordable housing rules. So section 8.2 is being modified to be about Affordable housing in general, and can include numerous different subsections to that effect. Mostly this amounts to renumbering and a bit of renaming of the existing sections, then the addition of the new section this amendment focuses on. I don't have the tools to create a mockup of it, as I don't have a pdf writer like the zoning bylaws uses. It's a lot clearer if you could see it like that.

¹⁷ Petitioner comment: This is put earlier to avoid having general rule, specific program, specific program, general rule, specific program in case more affordable programs are added to the bylaws.

- A. The Arlington Redevelopment Board shall administer this Section 8.2 and may adopt administrative rules and regulations to implement its provisions.
- B. Occupancy permits may be issued for market-rate units prior to the end of construction of the entire development provided that occupancy permits for affordable units are issued simultaneously on a prorata basis.
- C. Sales prices, resale prices, initial rents and rent increases for affordable units shall be restricted to ensure long-term affordability to eligible households, to the extent legally possible.
- D. The affordable units shall be subject to a marketing plan approved by the Director of Planning and Community Development, consistent with federal and state fair housing laws and the Town of Arlington's approved Affirmatively Furthering Fair Housing plan and policies, on file in the Department of Planning and Community Development.
- E. To the extent not inconsistent with the provisions of G.L. c.183A, condominium documentation shall provide the owners of the affordable units with voting rights sufficient to ensure an effective role in condominium decision-making.
All legal documentation shall be subject to review and approval by Town Counsel or its designee.
- F. Affordable units shall conform to all requirements for inclusion in the Chapter 40B Subsidized Housing Inventory.¹⁸

8.2.3 Inclusionary Zoning

~~8.2.2~~ 8.2.3.1 Applicability

The provisions of this Section 8.2.3 shall apply to all new residential development with six or more units subject to Section 3.4, Environmental Design Review, comprised of any or all of the following uses:

- Single-family detached dwelling
- Two-family dwelling
- Duplex dwelling
- Three-family dwelling
- Townhouse structure
- Apartment building
- Apartment conversion
- Single-room occupancy building

Any residential development of the uses listed above involving one lot, or two or more adjoining lots in common ownership or common control, for which special permits or building permits are sought within a three-year period from the first date of special permit or building permit application shall comply with the provisions of this Section 8.2.3.

~~8.2.3~~ 8.2.3.2 Requirements

- A. In any development subject to this Section 8.2.3, 15% of the dwelling units shall be affordable units as defined in Section 2 of this Bylaw. For purposes of this Section 8.2.3, each room for renter occupancy in a single-room occupancy building shall be deemed a dwelling unit. In

¹⁸ Petitioner comment: being moved so it's a general rule for all affordable housing programs for the affordable units to go into 40B stock; this also requires re-lettering the D and E parts after it in the list it used to be in]

determining the total number of affordable units required, calculation of a fractional unit of 0.5 or more shall be rounded up to the next whole number.

- B. The sale price or monthly rent of each affordable unit shall be calculated such that household size matches the number of bedrooms plus one.
- ~~C. Affordable units shall conform to all requirements for inclusion in the Chapter 40B Subsidized Housing Inventory.~~
- C. Affordable units shall be included in the locus of the development. In exceptional circumstances, the Arlington Redevelopment Board may allow the developer to make a financial contribution to the Affordable Housing Trust Fund in lieu of providing affordable units, if it finds that:

1. It is in the best interest of the Town to do so, or

2. The provision of affordable units would result in a hardship that renders the development financially infeasible.

The financial contribution to the Affordable Housing Trust Fund for each affordable unit shall be equal to the difference between the full and fair cash market value of a market-rate unit and the affordable price of a comparable affordable unit, and shall be payable in full prior to issuance of a final occupancy permit.

- D. Affordable units shall be dispersed throughout the development and shall be comparable to market-rate units in terms of location, quality and character, room size, number of rooms, number of bedrooms and external appearance.

~~8.2.3~~ 8.2.3.3 Incentive

Notwithstanding the special permit requirement under Section 6.1.10, Location of Parking Spaces, and Section 6.1.11, Parking and Loading Space Standards:

- A. The applicant shall have the option to reduce the number of spaces required in Section 6.1.4, Table of Off-Street Parking Regulations by up to 10 percent.
- B. In the case of a single-room occupancy building or dormitory, where more than 50% of the units are affordable to households earning no more than 60% of Area Median Income, the number of parking spaces for the affordable units may be reduced to 50% of the requirements, by special permit, where it can be shown that the parking provided will be sufficient for both residents and employees.

~~8.2.4~~ Administration

- ~~A. The Arlington Redevelopment Board shall administer this Section 8.2 and may adopt administrative rules and regulations to implement its provisions.~~
- ~~B. Occupancy permits may be issued for market-rate units prior to the end of construction of the entire development provided that occupancy permits for affordable units are issued simultaneously on a prorata basis.~~
- ~~C. Sales prices, resale prices, initial rents and rent increases for affordable units shall be restricted to ensure long term affordability to eligible households, to the extent legally possible.~~
- ~~D. The affordable units shall be subject to a marketing plan approved by the Director of Planning and Community Development, consistent with federal and state fair housing laws and the Town~~

of Arlington's approved Affirmatively Furthering Fair Housing plan and policies, on file in the Department of Planning and Community Development.

~~E. To the extent not inconsistent with the provisions of G.L. c.183A, condominium documentation shall provide the owners of the affordable units with voting rights sufficient to ensure an effective role in condominium decision-making.~~

~~All legal documentation shall be subject to review and approval by Town Counsel or its designee.~~

8.2.4 Fully Affordable Housing Development

A. Basic process

1. If a developer files for a building permit for a development under this section, or informs the Arlington Redevelopment Board in writing that they intend to create such a development at a specified site and provides suitable design plans, then the ARB will schedule a public hearing within 28 days upon the matter.¹⁹
2. If the developer filed for a building permit, the ARB will be notified the next day by the Building Inspector, and copies of the material submitted in the application shall be sent to the ARB.
3. If the developer has not filed for a building permit then they shall provide the ARB with suitably detailed plans for the proposed development.
4. The ARB shall give notification to abutters, owners of land directly opposite on any public or private street or way, and abutters to the abutters within three hundred feet of the property line of the lot on which the Fully Affordable Housing Development is proposed and to any individual or organization who each year files with ARB a written request for such notification, or to any other individual or organization ARB may wish to notify. The appropriate materials from the developer shall be made available to the public in advance, and the Planning Board may receive written comments prior to the meeting from City staff, abutters, and members of the public.
5. At the hearing, the ARB will listen to the developer as well as members of the public who wish to comment or give suggestions, and it will then either vote on a recommendation as to whether or not the development satisfies the requirements for a Fully Affordable Housing Development or, at the request of the developer and with the concurrence of the ARB, schedule a subsequent hearing. The ARB will inform the Building Inspector the next day on if they have voted on a recommendation and as to whether it is affirmative or

¹⁹ Petitioner comment: it's 28 days so if it's done concurrently with a permit application, it can be just barely completed within the 30 day requirement for permit applications to be approved or denied. I'm intentionally keeping the process short because time is money, and every month of delay in process can cost a developer \$10k or more.

negative, but the full documentation on that vote does not have to be filed immediately.²⁰
21 22

B. Utility Capacity

1. The Arlington Redevelopment Board shall see to the creation and maintenance of maps of all Arlington properties that shows the potentially available capacity for sewer, water, electrical, and any other pertinent utility. This is so that a developer considering a site can know directly and beforehand the extent to which any potential property could be developed without exceeding existing capacity. This map shall factor in both the limits of the immediate area, and the limits of other areas that are fed into or fed by more distant areas.^{23 24}
2. The maps shall be promptly updated when either:
 - A developer submits an application for a development under this section,
 - A developer submits notice that they have abandoned a project,
 - The board determines that a developer has abandoned a project without giving formal notice, or
 - Construction elsewhere substantially affects the available capacity.
3. If multiple developers wish to develop areas such that those projects cannot all be done without exceeding the utility capacity, then preference will be given to the developer(s) on a first come first serve basis.
4. If there is insufficient capacity for a proposed development, but the developer is willing to pay all the costs to improve the town infrastructure sufficiently to handle it, then the town will authorize such construction to the extent feasible.²⁵

C. Compensation for Abutters and others if needed

1. The purpose of this subsection is to ensure that any costs or losses incurred by abutters or other nearby property owners as a result of a new development can be compensated without cumbersome regulation or costly court battles.

²⁰ Petitioner comment: the last part is because, in response to a query on the matter, I was informed that on discretionary matters "After the board votes, it might take another week or two for the decision to get written, signed, and filed with the clerks office." For the issuance of a permit, all the building inspector needs to know is a yes/no, not the finer details. Also, because the developer was at the hearing they should know the details already.

²¹ Petitioner comment: does an agent of the developer showing up count as the developer showing up? Do we need/want a clause that the developer must show up to this hearing?

²² Petitioner comment: do we want a clause on what to do if the ARB fails to schedule a hearing within the required 28 days?

²³ Petitioner comment: This section is necessary because these developments do not have an environmental design review, and as such require a system to ensure that stormwater drains are not overflowed, nor sewage or other systems. Also because it's very helpful to know such information early in the process; as when one is looking at possible development sites gathering the info for each possible site without such a map can be time consuming. I myself once looked at possible development sites, and found actually getting the details on sewer and other capacity to be quite difficult.

²⁴ Petitioner comment: I say "shall see to the creation" so that the actual work can be sent off to some other town group/workers, with the ARB just doing oversight of it.

²⁵ Petitioner comment: What about all the cul-de-sacs that are often on privately owned ways in town?

2. If shade from a development will reduce the amount of energy generated by a nearby solar power system, then compensation will be provided based on 50 years worth of the amount of electricity lost due to the increased shade.
3. Modest generic compensation rules may be created by the Arlington Redevelopment Board to cover factors not otherwise provided for.^{26 27 28}

²⁶ Petitioner comment: E.g., if the neighbor wants to improve their fencing on that side, or add shrubs on their side to block out the view. or move their garden as a result of the changes to the view or the shade patterns.

²⁷ Petitioner comment: The point of saying modest is that these things shouldn't amount to that much money. Maybe a few thousand per neighbor at most.

²⁸ Petitioner comment: How much lead time do developers have? I'm pondering the tradeoffs between giving time for community feedback vs the costs to a developer for every month of delay before they can start building. The Cambridge plan seems to delay things by at least 3 months or more, which represents an effective cost of at least 1%. Every delay, while it helps the community be involved in planning, also incurs costs which inevitably raise the price of affordable housing. Is it politically feasible to pass this without a significant community input delay?

Article 29 ZONING BYLAW AMENDMENT/ DOWNTOWN BUSINESS PARKING MINIMUMS

To see if the Town will vote to amend the Zoning Bylaw to completely remove the minimum parking requirements for all non-residential uses in the B5 District; or take any action related thereto.

(Inserted at the request of James Fleming and 10 registered voters)

Mr. Fleming provided additional information to support this article. It is attached to the agenda.

The staff provides the following additional considerations relevant to this article:

- **Affects the B5 District:** In 2020, Special Town Meeting voted to give Special Permit Granting Authorities the ability to reduce or eliminate the amount of parking required for a business in the B3 or B5 Zoning Districts through the granting of a special permit, should the applicant be able to demonstrate that there is adequate on-street or municipal parking nearby. Article 29 extends this provision by eliminating the off-street parking requirement entirely for non-residential uses in the B5 district. Parking minimums still apply for residential uses and the residential component of a mixed-use building in the B5 district.

The B5 district is located exclusively in Arlington Center; based on Town GIS data, 26 parcels are within the B5 district. The intent of the B5 Zoning District includes allowing for uses oriented to pedestrian traffic, both to encourage commercial activity from neighborhood residents, and to encourage visitors who drive to park once and visit multiple locations on foot within a single visit. On-street parking is available, and the Russel Common municipal parking lot is located in Arlington Center as well.

Under this Warrant Article, property owners seeking to redevelop property in the B5 district may continue to choose to provide off-street parking; the Warrant Article only eliminates the minimum parking requirement for commercial uses.

- **Facilitates change of use and supports new businesses in existing storefronts:** Presently, if a business seeks to open in a vacant storefront in the Business Districts and the new use requires off-street parking, the business must request a Special Permit under Environmental Design Review to request a parking waiver, even if no other changes to the property are requested. Business owners renting property within an existing structure have limited, if any, ability to create off-street parking; for businesses seeking to open without changes to the exterior façade, going through the Special Process extends their ability to open by approximately two months. The amendment would allow commercial tenants to circumvent the requirement to request a waiver, instead allowing them to work with staff to develop a TDM plan and/or identify locations of proximate municipal parking lots.
- **Consistency with the Master Plan, Arlington Heights Neighborhood Action Plan, and Sustainable Transportation Plan** – The Master Plan indicates that parking requirements that reflect the actual need for parking should be developed as a way to manage parking in commercial areas (Recommendation 5 of Traffic & Circulation, page 68). The Warrant Article is consistent with this goal and reflective of the fact that meeting the requirements of the existing off-street parking regulations is challenging or impossible in dense business districts, particularly for certain business uses that require higher parking ratios per the existing Zoning Bylaw. A goal of the Sustainable Transportation Plan is to create a vision for all aspects of mobility, including walking, bicycling, public transportation, driving, shared mobility, and micro mobility. This Warrant Article may help encourage business owners to identify other more sustainable mobility options for both customers and employees to access their business, including additional TDM measures.

Mr. Fleming provided the following:

That the Zoning Bylaw be and hereby is amended as follows:

- By making the following changes to Section 6.1 of the Zoning Bylaw (“Site Development Standards”, “Off-Street Parking”):

6.1.2. Applicability

- A. No land, building, or structure shall be used or changed to a category of greater parking demand, determined in accordance with the Table of Off-Street Parking Regulations below, except in accordance with this Section 6.1.
- B. Non-residential uses in the B5 District shall not be required to provide off-street parking; for any development, or change of use to a category of greater parking demand, the applicant may substitute space within public parking lots in lieu of parking requirements provided they are located within 1,000 feet of the building to be served, or shall provide a Transportation Demand Management plan as described in Section 6.1.5(C), to be administratively reviewed by the Department of Planning and Community Development.

Article 30 ZONING BYLAW AMENDMENT/ ONE- AND TWO-FAMILY USABLE OPEN SPACE

To see if the Town will vote to amend the Zoning Bylaw to completely remove the usable open space requirement for one- and two-family uses; or take any action related thereto.

(Inserted at the request of James Fleming and 10 registered voters)

Mr. Fleming provided additional information to support this article. It is attached to the agenda.

The staff provides the following additional considerations relevant to this article:

- **Scope of the Article:** The Warrant Article affects residential properties in the R0, R1, and R2 zoning districts. These districts just over 80% of Arlington's zoned land, although note all properties in the R0, R1, and R2 districts contain residential uses.
- **Simplifies the Zoning Bylaw by aligning open space with setback requirements:** The Zoning Bylaw uses a number of requirements to create and regulate open space in the residential districts:
 - Front setbacks: 25 feet in R0 and R1 districts; 20 feet in the R2 district
 - Side yard setbacks: 10 feet in the R0, R1, and R2 districts
 - Rear yard setbacks: 20 feet or 20% of lot depth in the R0, R1, and R2 districts
 - Maximum lot coverage: 35% in the R0, R1, and R2 districts
 - Landscaped open space: 10% of residential floor area in the R0, R1, and R2 districts
 - Usable open space: 30% of residential floor area in the R0, R1, and R2 districts

As noted above, the Zoning Bylaw currently defines two types of open space: landscaped open space and usable open space. Open space only meets the definition of *usable* if it is mostly flat and is at least 25 feet by 25 feet square (ironically, neither usable nor landscaped open space is required to be pervious). Because of this additional dimensional requirement, many residential properties in Arlington are non-conforming, even if they provide a substantial amount of pervious, landscaped, or wooded areas, and meet the 20 foot rear yard setback requirement.

Additionally, in contrast to many communities where open space requirements are based on a proportion of lot size or not established at all, the Arlington Zoning Bylaw open space requirements are determined based on a percentage of a residential gross floor area. This means that as a home increases in size, more open space is required in order for the property to comply with the Zoning Bylaw. This can happen even if the property has a 25 by 25 foot, flat back yard. For example, if an owner of a 1,500 square foot home wished to add a 500 square foot dormer, the owner would be required to create an additional 200 square feet of usable and landscaped open space in order for the addition to be allowed without a special permit. Creating additional open space on a constrained lot is difficult, if not impossible, especially when a significant proportion of residential properties are already nonconforming because their lots are smaller than the minimum lot size for their zoning district.

These requirements are *in addition to* setback and lot coverage requirements. Setback requirements *also* create open space, although they do not specify grade or differentiate between the concepts of landscaped and usable open space. For the most part, properties in the R0, R1, and R2 are required to have a 20 foot rear yard setback and 10 foot side yard setbacks. The usable open space dimensional requirement of 25 feet by 25 feet goes beyond the required rear yard setback, essentially requiring rear yards to have a 25 foot setback, not a 20 foot setback.

The Warrant Article proposes a simplification of the Zoning Bylaw by eliminating the usable open space requirement and instead relying on setbacks, landscaped open space, and lot coverage to provide open space. The proposed amendment would not eliminate the concept of open space as a requirement; it simply eliminates a duplicative and contradictory set of dimensional requirements.

- **Consistency with the Master Plan** –The Master Plan discusses the need to review open space requirements by providing for other types of open space. Overall, the definition of usable open space presents an outdated view of how open space should or can function by referring to tennis courts and clothes drying, and prioritizing flat lawn areas. More current conceptions of open space prioritize natural areas, flat or not, with native plantings and opportunities for stormwater infiltration. The Warrant Article circumvents the reliance on the usable open space definition entirely by instead relying on other dimensional standards to provide open space on a parcel.

In his provided materials, the petitioner demonstrates the process he followed to evaluate alternatives to the Article. The petitioner’s materials indicate how the rejected alternatives would have resulted in an abundance of new non-conforming properties, whereas this Warrant Article has the potential to bring some nonconforming properties into compliance. This is consistent with the Master Plan, which recommends reducing the number of uses that require a special permit. The Warrant Article could additionally promote the usability of the Zoning Bylaw which is discussed in the Master Plan.

Mr. Fleming provided the following:

That the Zoning Bylaw be and hereby is amended as follows:

- By making the following deletions to the rows labeled “Permitted residential structure” under the R0, R1, and R2 districts in Table 5.4.2(A) “Tables of Dimensional and Density Regulations.”

Minimum/Maximum Requirements			
District Use	Landscaped Open Space (Min.)	Usable Open Space (Min.)	Maximum Lot Coverage
R0			
Permitted residential structure	10%	30%	35%
R1, R2			
Permitted residential structure	10%	30%	35%

[Draft version note: things in brackets [] denote questions or policy considerations to be decided for the final draft, or commentary]

That the Zoning Bylaw be and hereby is amended as follows:

Amend Section 2 in category "Definitions Associated with Affordable Housing"

Fully Affordable Housing Development The construction of a new building or buildings and/or the modification of an existing building or buildings resulting in single-family, two-family, three-family, townhouse, multifamily, duplex, or single-room occupancy within which each unit, dwelling or rooming, [is this the correct wording to have it cover dwelling units and rooming units?] is an Affordable Unit. Such projects are subject to the standards, restrictions, and process set forth in Section 8.2.4 and elsewhere in this Zoning Bylaw.

[current definition requires max 60% AMI for rent and max 70% AMI for ownership. Not sure if those numbers will be reachable. Might want to create an alternate definition with looser standards.]

[this definition already means 100% of the units must be affordable; that could be explicitly stated to be clearer to those less familiar with reading codes, but would also be redundant.]

add Section 5.2.5 Fully Affordable Housing Development

Fully Affordable Housing Developments can be done in most districts and have a number of differences and exemptions detailed herein and elsewhere. They allow much higher density and different character than otherwise allowed in their district. Fully Affordable Housing Developments must be at least 120 feet from any other Fully Affordable Housing Development. [to prevent ghetto problems, 100-200 is probably a good range, may wish to include some pre-existing affordable housing, could focus more on the front than the back of the lot for determining minimum distance, or otherwise tweak formula based on street distance. Could use distance from any 40B SHI Units instead] Each Fully Affordable Housing Development must be built upon a single lot; it may not use multiple contiguous lots under one ownership. [do we need a 'does not include accessory structures, which are done under the normal rule sfor accessory structures clause?]

[long term - monitor 5.3.3.A to see if any modifications need to be made to better support additionally primary housing structures on a lot]

[concern over new minimum side yards and interaction with 5.3.14.B I don't mind, others may]

5.4.2.A add lines for Fully Affordable Housing Development in each of the following

District Lot Regulations [R0, R1, R2 require no change, as technically the dash means there is no minimum, or alternately a section could be added to clarify]

- R3 5000 - 45
- R4 5000 - 60
- R5 5000 - 60
- R6 5000 - 45
- R7 10000 - 70

District Yard and Open Space Requirements

- R0, R1 10+(H/6) 10 10+(H/6)
- R2 10+(H/6) 10 10+(H/6)
- R3 10 10 10+(H/6)
- R4 10+(H/6) 10 10+(H/6)
- R5 15 10 10+(H/6)
- R6 10 10 10+(H/6)
- R7 10+(H/6) 18 10+(H/6)

District Open Space and Lot Coverage Regulations

- R0-7 [all R districts] 10 15 -

District Building Height and Floor Area Ratio Regulations

- R0, R1 35 3 2.00
- R2 35 3 2.00
- R3 40 3.5 -
- R4 40 3.5 -
- R5 40 3.5 -
- R6 45 4 -
- R7 60 5.5 -

5.4.2.B.6

Append "This section shall not apply to a Fully Affordable Housing Development" [is section the right word? clause?]

[the below section may be removed, or it could be kept for clarity]

5.4.2.B.9

Fully Affordable Housing Developments done in districts R0, R1, and R2 have no minimum lot area per unit, and may be built despite the districts normally not allowing dense housing or multiple separated residential buildings

5.4.3 add line for Fully Affordable Housing Development under residential section with Y for all districts R0-7

5.5.2.A add lines for Fully Affordable Housing Development in each of the following

District Lot Regulations

- B1 5000 - 50
- B2 5000 - 50
- B2A 6000 - 50
- B3 6000 - 50

- B4 6000 - 50
- B5 6000 - 50

District Yard and Open Space Requirements

[why would housing need the setbacks for front yard and such? State sanitary code natural light requirements exist to cover light needs]

- B1 10+(H/6) 10 10 + H/6 min: 15
- B2 0 0 10 + H/6 min: 15
- B2A 0 0 10 + H/6 min: 15
- B3 0 0 10 + H/6 min: 15
- B4 0 0 10 + H/6 min: 15
- B5 0 0 10 + H/6 min: 15

District Open Space and Lot Coverage

- all B 10% 15% -

District Building Height and Floor Area Ratio Regulations

- B1 35 3 2.00
- B2 50 4 -
- B2A 60 5 -
- B3 60 5 -
- B4 60 5 -
- B5 75 7 -

5.5.2.B.4 does not apply to Fully Affordable Housing Developments.

5.5.3

Fully Affordable Housing Development gets a Y in all B districts

[Is it worth doing writeups for I or any of the other zones? While I can be residential, how do we distinguish areas that would have unpleasant neighbors from others? There's a sad and long history of poor people getting stuck next to industry in places where it means they suffer more from pollution. One could make I areas SP-only for affordable projects, but that kinda defeats the point of having them all be Y in eligible districts. I'm not that familiar with the town's inventory of I and which ones could potentially be converted into residences.]

Amend 6.1.4 Table to add Fully Affordable Housing Development in the Residential section

with 1 space per 5 dwelling units

[I wonder if even that is too many, the idea is that the people using these properties basically won't have cars of their own on average, or if they do, they'll expect to pay a surcharge to have a parking spot. I don't have a clear sense of the rate at which parking spaces are utilized by non-residents. It'd be a waste to require extra parking and have it sit there unused. No spaces should be available for residents long-term use unless they pay for a spot. Let the developers decide whether they can manage to rent units that don't have parking spots if they choose to develop in that way.]

[consider allowing a reduction if the area along the frontage of the lot is generally available; probably best measured by if it has no meters or signs restricting parking by hours or other characteristics. ie in residential side streets that are far from the notable points in town, there's often plenty of street parking for visitors. It's unclear how much of the parking requirements exist to accomodate visitors, and how much is to accomodate the users of the property.]

[should we require that some of the spaces be designated for visitors and loading/unloading?]

amend 6.1.12.D table to add in the same category as Apartment building ", Fully Affordable Housing Development"

[section 8.2 is already about affordable housing; if this proposal is not put there it may be confusing to have the section about affordable housing be missing one of the parts of the affordable housing rules. So section 8.2 is being modified to be about Affordable housing in general, and can include numerous different subsections to that effect. Mostly this amounts to renumbering and a bit of renaming of the existing sections, then the addition of the new section this amendment focuses on. I don't have the tools to create a mockup of it, as I don't have a pdf writer like the zoning bylaws uses. It's a lot clearer if you could see it like that]

Amend Section 8.2 heading "Affordable Housing Requirements" to "Affordable Housing"

Amend the following section numbers

- 8.2.2 -> becomes 8.2.3.1
- 8.2.3 -> 8.2.3.2
- 8.2.3.C -> 8.2.2.F [being moved so it's a general rule for all affordable housing programs for the affordalbe units to go into 40B stock; this also requires re-lettering the D and E parts after it in the list it used to be in] 8.2.3.2.D -> 8.2.3.2.C 8.2.3.2.E -> 8.2.3.2.D
- 8.2.4 -> 8.2.3.3
- 8.2.5 -> 8.2.2 [this is put earlier to avoid having general rule, specific program, specific program, general rule, specific program in case more affordable programs are added to the bylaws]

Add new bolded heading "8.2.3 Inclusionary Zoning" before what used to be 8.2.2 Applicability

amend "The provisions of this Section 8.2" and "In any development subject to this Section 8.2" and "For purposes of this Section 8.2., each room for" and "shall comply with the provisions of this Section 8.2" the 8.2 in each of those will be changed to 8.2.3

Add new bolded heading "8.2.4 Fully Affordable Housing Development"

8.2.4.1 Basic process

8.2.4.1.1 If a developer files for a building permit for a development under this section, or informs the Arlington Redevelopment Board in writing that they intend to create such a development at a specified site and provides suitable design plans, then the ARB will schedule a public hearing within 28 days upon the matter.

[it's 28 days so if it's done concurrently with a permit application, it can be just barely completed within the 30 day requirement for permit applications to be approved or denied.

I'm intentionally keeping the process short because time is money, and every month of delay in process can cost a developer \$10k or more.]

8.2.4.1.2 If the developer filed for a building permit, the ARB will be notified the next day by the Building Inspector, and copies of the material submitted in the application shall be sent to the ARB.

8.2.4.1.3 If the developer has not filed for a building permit then they shall provide the ARB with suitably detailed plans for the proposed development.

8.2.4.1.4 The ARB shall give notification to abutters, owners of land directly opposite on any public or private street or way, and abutters to the abutters within three hundred feet of the property line of the lot on which the Fully Affordable Housing Development is proposed and to any individual or organization who each year files with ARB a written request for such notification, or to any other individual or organization ARB may wish to notify. The appropriate materials from the developer shall be made available to the public in advance, and the Planning Board may receive written comments prior to the meeting from City staff, abutters, and members of the public.

8.2.4.1.5 At the hearing, the ARB will listen to the developer as well as members of the public who wish to comment or give suggestions, and it will then either vote on a recommendation as to whether or not the development satisfies the requirements for a Fully Affordable Housing Development or, at the request of the developer and with the concurrence of the ARB, schedule a subsequent hearing. The ARB will inform the Building Inspector the next day on if they have voted on a recommendation and as to whether it is affirmative or negative, but the full documentation on that vote does not have to be filed immediately.

[the last part is because, in response to a query on the matter, I was informed that on discretionary matters "After the board votes, it might take another week or two for the

decision to get written, signed, and filed with the clerks office." For the issuance of a permit, all the building inspector needs to know is a yes/no, not the finer details. Also, because the developer was at the hearing they should know the details already.]

[does an agent of the developer showing up count as the developer showing up? Do we need/want a clause that the developer must show up to this hearing?]

[do we want a clause on what to do if the ARB fails to schedule a hearing within the required 28 days?]

8.2.4.1.6

8.2.4.2 Utility Capacity

8.2.4.2.1 The Arlington Redevelopment Board shall see to the creation and maintenance of maps of all Arlington properties that shows the potentially available capacity for sewer, water, electrical, and any other pertinent utility. This is so that a developer considering a site can know directly and beforehand the extent to which any potential property could be developed without exceeding existing capacity. This map shall factor in both the limits of the immediate area, and the limits of other areas that are fed into or fed by more distant areas.

[This section is necessary because these developments do not have an environmental design review, and as such require a system to ensure that stormwater drains are not overflowed, nor sewage or other systems. Also because it's very helpful to know such information early in the process; as when one is looking at possible development sites gathering the info for each possible site without such a map can be time consuming. I myself once looked at possible development sites, and found actually getting the details on sewer and other capacity to be quite difficult.]

[I say "shall see to the creation" so that the actual work can be sent off to some other town group/workers, with the ARB just doing oversight of it.]

8.2.4.2.2 The maps shall be promptly updated when either - A developer submits an application for a development under this section, a developer submits notice that they have abandoned a project, the board determines that a developer has abandoned a project without giving formal notice, or construction elsewhere substantially affects the available capacity.

8.2.4.2.3 If multiple developers wish to develop areas such that those projects cannot all be done without exceeding the utility capacity, then preference will be given to the developer(s) on a first come first serve basis.

8.2.4.2.4 If there is insufficient capacity for a proposed development, but the developer is willing to pay all the costs to improve the town infrastructure sufficiently to handle it, then the town will authorize such construction to the extent feasible.

[what about all the cul-de-sacs that are often on privately owned ways in town?]

8.2.4.3 Compensation for Abutters and others if needed

8.2.4.3.1 The purpose of this subsection is to ensure that any costs or losses incurred by abutters or other nearby property owners as a result of a new development can be compensated without cumbersome regulation or costly court battles.

8.2.4.3.2 If shade from a development will reduce the amount of energy generated by a nearby solar power system, then compensation will be provided based on 50 years worth of the amount of electricity lost due to the increased shade.

8.2.4.3.3 Modest generic compensation rules may be created by the Arlington Redevelopment Board to cover factors not otherwise provided for.

[eg if the neighbor wants to improve their fencing on that side, or add shrubs on their side to block out the view. or move their garden as a result of the changes to the view or the shade patterns.]

[the point of saying modest is that these things shouldn't amount to that much money. maybe a few thousand per neighbor at most]

[how much lead time do developers have? I'm pondering the tradeoffs between giving time for community feedback vs the costs to a developer for every month of delay before they can start building. The Cambridge plan seems to delay things by at least 3 months or more, which represents an effective cost of at least 1%. Every delay, while it helps the community be involved in planning, also incurs costs which inevitably raise the price of affordable housing.

Is it politically feasible to pass this without a significant community input delay?]

[The sections below are from a prior draft, and are mostly replaced as a result of the rework of section 8.2, or other reworks, they are included for reference, and marked off with a series of asterisks at the beginning and end]

[*****

If a Fully Affordable Housing Development will, as a result of any new construction or modification, decrease the energy of another property's solar energy panels, then a shade compensation fee must be paid based on the estimated value of electricity lost from the shade over a period of 50 years. The [some town agency, or state] will establish standards to estimate that value.

If there is a dispute as to the amount of electricity that will be lost, either party may request a two year delay before a decision is made on the amount of the shade compensation, so that the actual effects of the shade may be documented. [is a 2 year delay too long? also is it legal to delay proceedings like that? This seems like it may be too cumbersome]

If there is a dispute as to the value of the shade compensation, then the parties must decide to settle the matter in court, via mediation, or binding arbitration. The Arlington Redevelopment Board is authorized to serve as a binding arbiter for this purpose if both parties wish it. [is it legal to authorize that? It certainly seems appropriate as they already do environmental design review, so they have at least some expertise in the area; I chose not to put mediation in that category as mediating may not be a supported skillset in the ARB, while arbitrating should be a bit easier. Should there be an explicit mention that the value of such compensation will often be low enough to qualify for small claims court?]

[Should there also be shade compensation for interfering with a pre-existing garden? I'd expect the compensation to be quite small, as it's not like the area would be blacked out, just get less sun. are there any other topics to provide routine compensation for? If politically necessary, adding an additional automatic compensation of a few thousand dollars to direct abutters could be done.]

Fully Affordable Housing Development Dwelling Units shall be rented or sold only to Eligible Households, in accordance with standards and procedures related to selection, asset limits, and marketing established by [which town group should be in charge of this? DPCD? ARB? ZBA?] and applicable state funding requirements.

Fully Affordable Housing Development Dwelling Units shall be created and conveyed subject to recorded covenants approved by [same town dept as above] guaranteeing the availability of the Fully Affordable Housing Development Dwelling Units for Eligible Households for the next X years.

[deed restrictions can be for longer than 30 years in case of affordable housing, correct? Cambridge rules seem permanent, but forever is a long time; maybe 50-100 years? or maybe just 30 years? If this program works as planned, it should create units that are close to affordable at market rate without subsidies, and hence there would be no need long term to restrict them to eligible households, because that's simply where they'd naturally be priced]

[politically, it seems necessary to restrict these projects to eligible households, even though the real goal is to simply make it possible to create units that are market-rate affordable for those households. But I don't think there would be the votes to pass this if there wasn't a household eligibility restriction.]

After initial occupancy, the gross household income of an Eligible Household shall be verified annually, or on such other basis required by an applicable housing subsidy program which has been approved by [town agency A], to determine continued eligibility and rent, in accordance with policies, standards, and procedures established by [town agency A].

An Eligible Household may continue to rent a Fully Affordable Housing Development Dwelling Unit after initial occupancy even if the Eligible Household's gross household income exceeds the eligibility limits set forth above, but may not exceed one hundred twenty percent (120%) of AMI for more than one year after that Eligible Household's gross household income has been verified to exceed such percentage, unless otherwise restricted pursuant to an applicable housing subsidy program which has been approved by [town agency A]. end of the discard text section *****]

Downtown Business Parking Minimums

2023 Arlington Town Meeting

James Fleming

Commercial Parking Minimums

- Minimum amount of parking you must build for a building.
- For example, Retail/Service use requires 1 parking space per 300 ft² of “stuff”

Use	Minimum Number of Spaces
Residential Uses	
Single-, two-, or three-family dwelling, or apartment building, except for public housing for the elderly	1 space per dwelling unit
Public housing for the elderly	1 space per 5 units
Assisted living residence	0.4 spaces per dwelling unit
Single-room occupancy building	1 per unit Any bedroom or group of 2 beds in a single room
Group home	2 spaces per 4 residential rooms
Business or Industrial Use	
Auto sales, similar retail and service establishments with extensive display areas that are unusually extensive in relation to customer traffic	1 space per 1,000 sq. ft. of gross floor area For outdoor display areas, 1 space per 1,000 sq. ft. of lot area used for these purposes
Hotel/motel	1 space per sleeping room, plus 1 space per 400 sq. ft. of public meeting area or restaurant space
Other retail or service use	1 space per 300 sq. ft. of gross floor area
Office, business or professional	1 space per 500 sq. ft. of gross floor area
Wholesale business and storage	1 space per 1,000 sq. ft. of gross floor area
Manufacturing, Light	1 space per 1,000 sq. ft. of gross floor area or 0.75 spaces per employee of the combined employment of the two largest successive shifts, whichever is greater
Office, medical or clinic	4 spaces per physician, dentist, practitioner

Proposal

- Don't require parking for businesses in part of the downtown (B5).
- If:
 - new development, OR
 - the “use” is required to have more parking
- Applicants can either:
 - Claim nearby public parking
 - Provide a plan to reduce car traffic (TDM)
- No Special Permit review (faster business opening)

Why? Requirements Are High

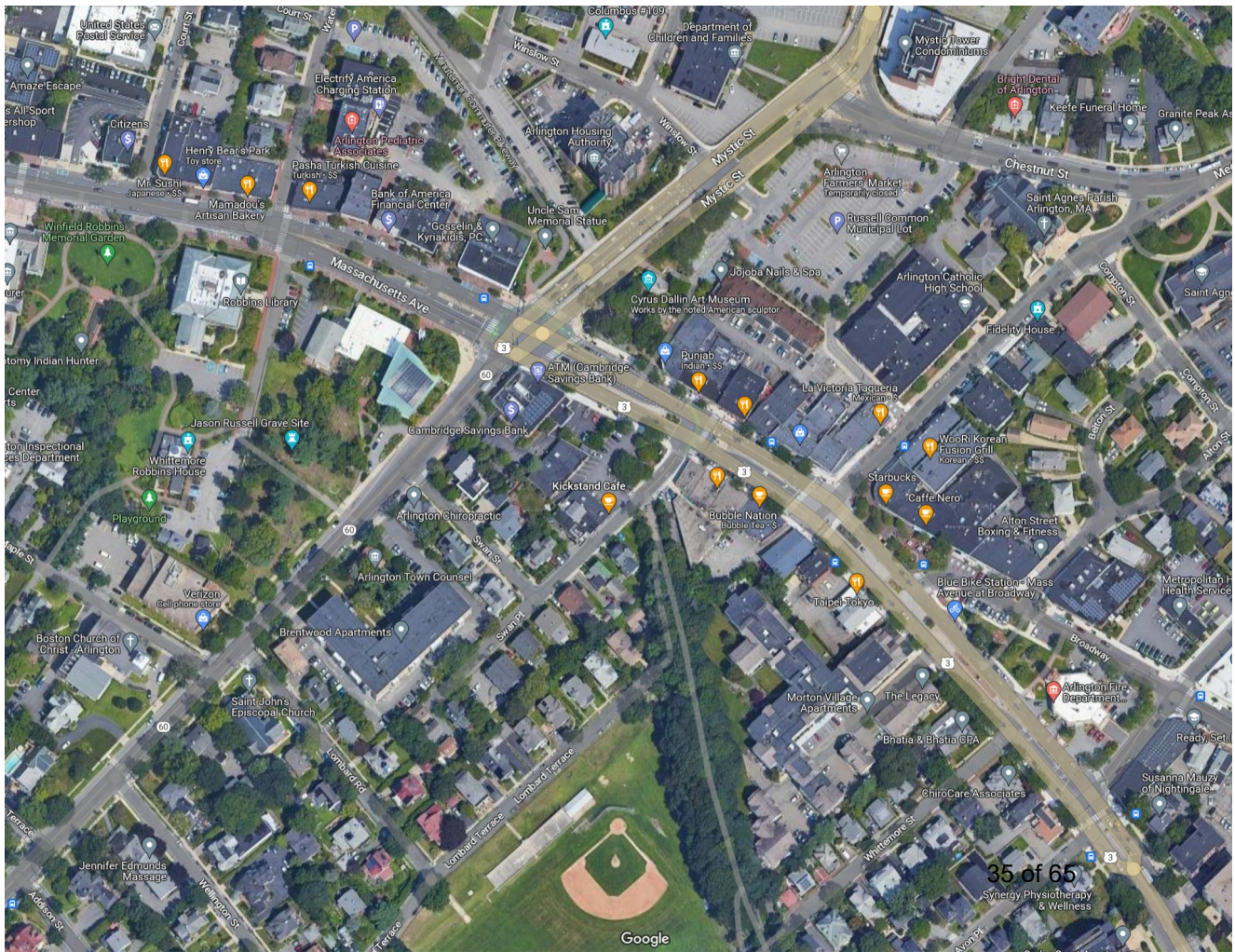
- ~300 ft² per parking space + aisle
- Retail/Service use requires ~300 ft² parking per 300 ft² of “fun stuff”
 - (Half the space)



Why? Requirements Are High

- ~300 ft² per parking space + aisle
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 - (Half the space)



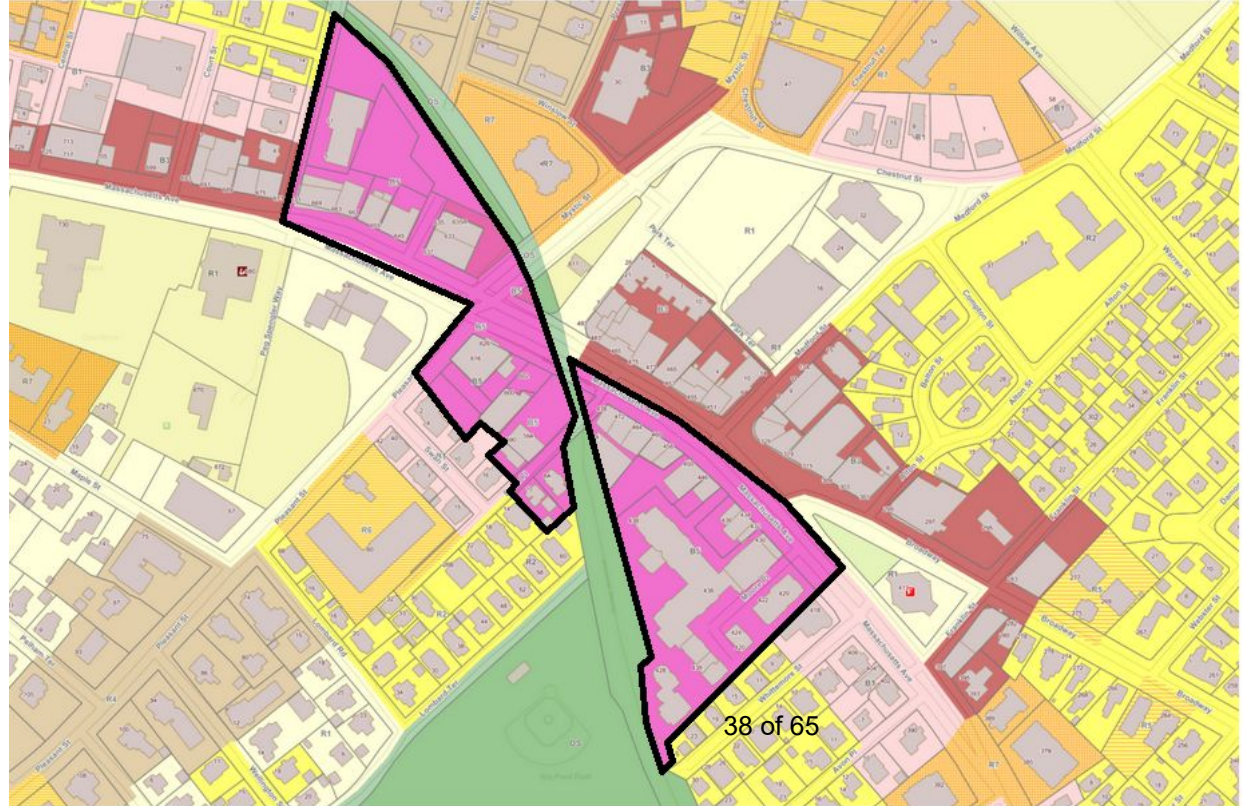






Where?

- The outlined area
- Known as the “B5 District”



Details - Public Parking Substitution

- Applicant can substitute public parking in place of parking requirement
 - If within 1000 feet of a public parking lot
- Already allowed for a Special Permit
 - Sec. 6.1.9(D)

D. Public Parking Lots. The Board of Appeals or Arlington Redevelopment Board, as applicable, may allow the substitution of space within public parking lots in lieu of parking requirements of this Section 6.1 provided they are located within 1,000 feet of the building to be served.
- This provision would be by-right for B5 uses

Details - Transportation Demand Management (TDM)

- If cannot substitute parking, must do 3 of the following:
 1. Charge for parking
 2. Pay stipend to workers without cars
 3. Carpool parking
 4. Emergency ride home
 5. Transit pass subsidies
 6. Extra covered bike parking
 7. Car/bike sharing
 8. Showers on-site
- Currently by special permit; would become by-right

Parking Reductions - Today

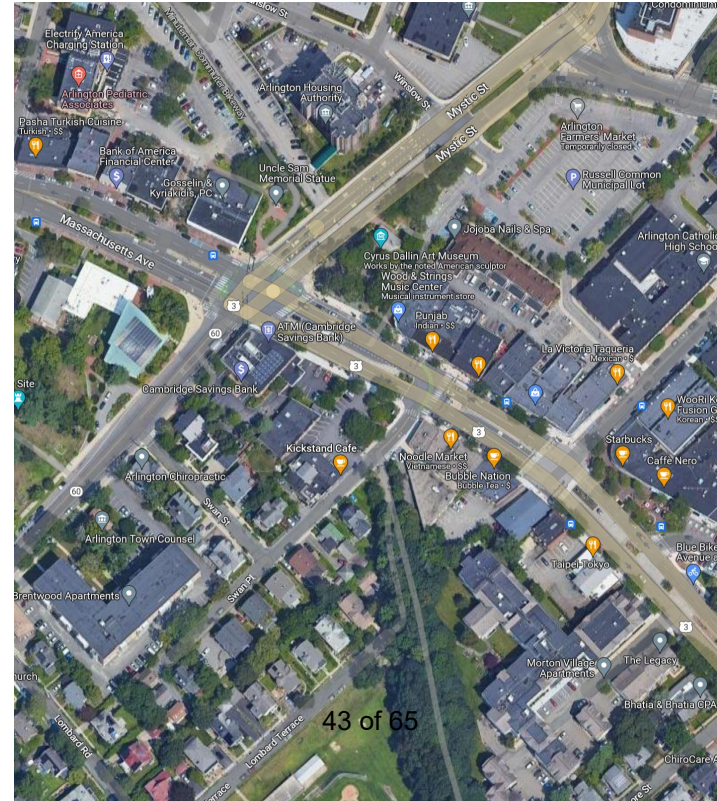
- B5 Businesses can request parking reductions by Special Permit
- Means:
 - Use nearby public/shared parking
 - Provide a plan to reduce parking demand (TDM)
- Plans are reviewed by ARB and Town staff

Parking Reductions - As Proposed

- B5 Businesses can request parking reductions ~~by Special Permit~~ by right
- Means:
 - Use nearby public/shared parking
 - Provide a plan to reduce parking demand (TDM)
- Plans are reviewed by ~~ARB and~~ Town staff

Summary

- B5 businesses won't need to provide parking. Mitigation requirements the same.
- Main difference is a faster and more predictable review process.
- We need businesses to make Arlington desirable - let's make it easier for them to open.



One- and Two-Family Usable Open Space

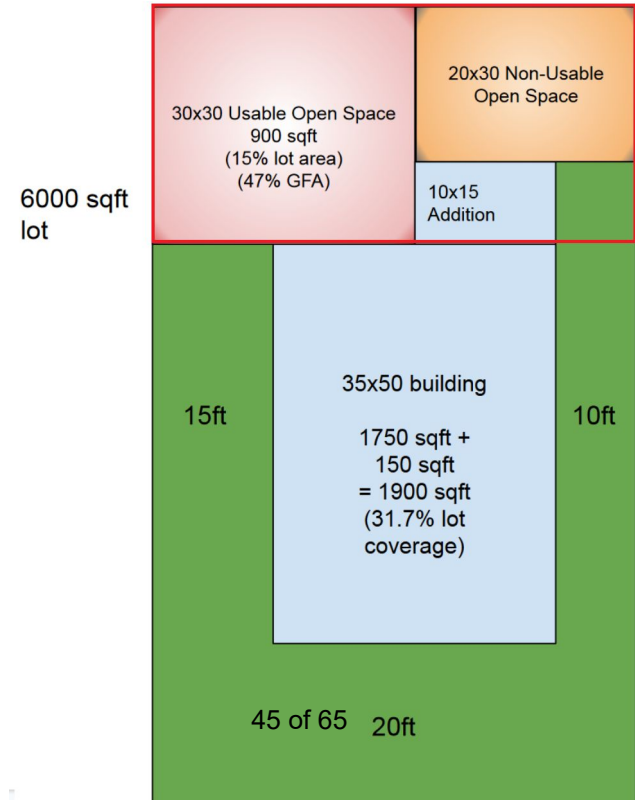
2023 Arlington Town Meeting

James Fleming

Usable Open Space (UOS)

- Continuous space, minimum of 25x25
 - Does not have to be green space
- More living space -> More UOS
- For enjoyment by residents:

“The part or parts of a lot designed and developed for outdoor use by the occupants of the lot for recreation, including swimming pools, tennis courts, or similar facilities, ... , free of automotive traffic and parking...”



Proposal

- Remove the UOS requirement for One- and Two-Family homes:
 - Don't prevent owners from creating UOS
 - Don't require owners to have UOS

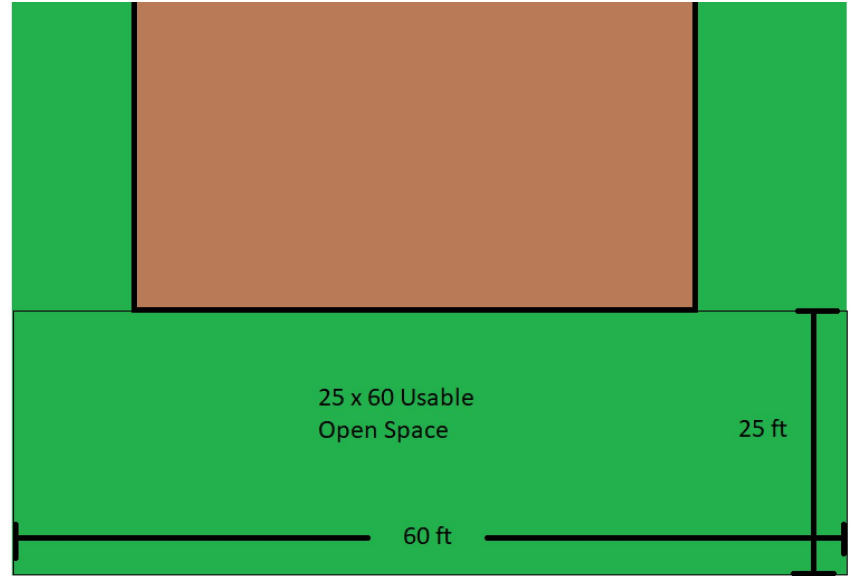
Other Towns?

- Lexington, Belmont, Winchester, Waltham don't have UOS at all
- Medford has similar Usable Open Space, based on floor area, with minimum dimensions, but not required for 1F/2F

					MINIMUM PERMITTED						
					Lot					Open Space % Gross Floor Area	
					Area (square feet)		Frontage (feet)	Width (feet)	Depth (feet)	Landscaped	Usable
					Per Dwelling Unit	Total					
1.	Detached single-family dwelling										
	(a)	In SF-1 districts			N/A	7,000	35	50	55	N/A	N/A
	(b)	In all other districts			N/A	5,000	35	50	55	N/A	N/A
2.	Detached two-family dwelling				N/A	6,000	35	60	60	N/A	47 of 65 N/A

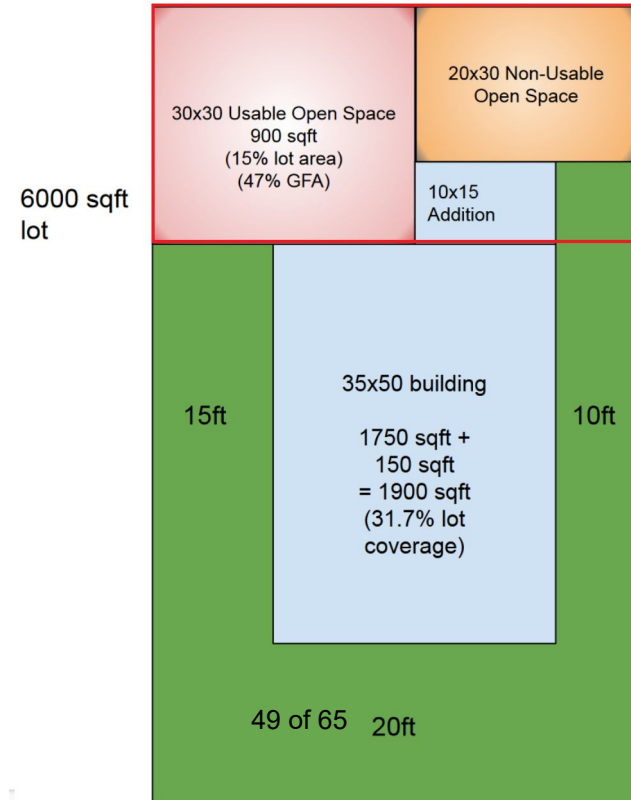
Doesn't Have An Effect Everywhere

- Smallest One-Family zoning requires:
 - 25 ft front yard setback
 - 60 feet minimum lot width
- Front yard is always going to provide Usable Open Space



Affects Two- and older One-Family

- Two-Family zoning requires:
 - 20 ft front yard setback
 - 60 feet minimum lot width
- Old, non-conforming One-Family homes
- UOS in backyard only

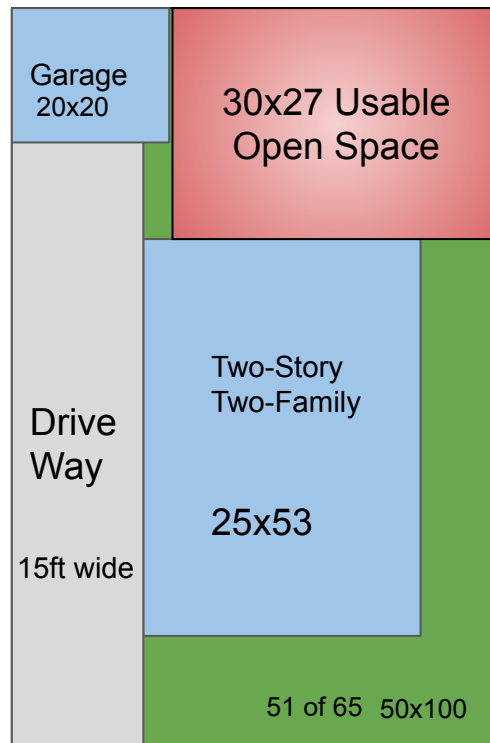


Why? Can prevent old building adaptation

- **Problem:** Requirement grows as living space grows; you can't increase yard space.
- Can prevent an owner from adapting their home to their needs

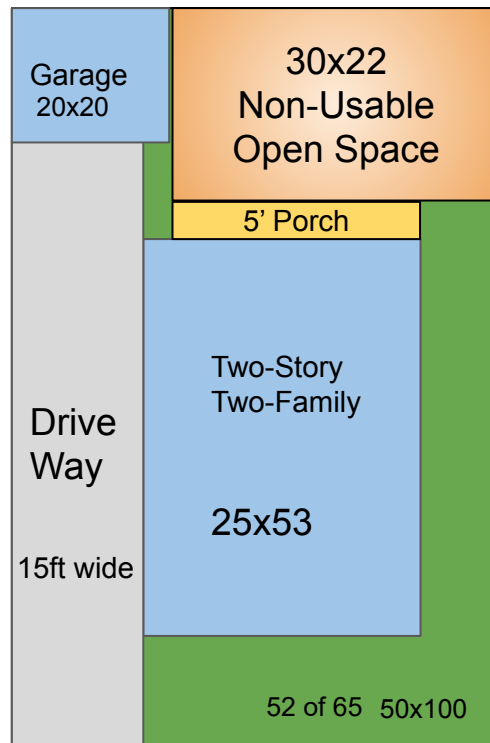
Why? Can prevent old building adaptation

- Example on the right is just barely conforming. Has:
 - 2650 ft² living space
 - 810 ft² UOS
- Requirement is 795 ft² UOS
 - 30% of 2650 ft²
- $810 > 795$



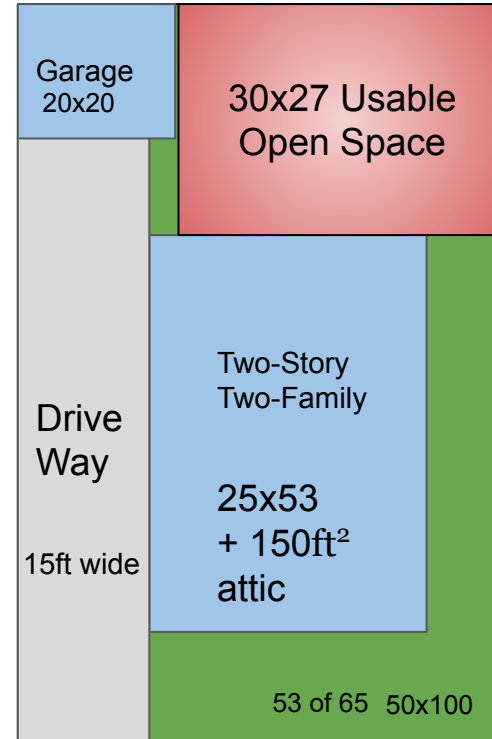
Why? Can prevent old building adaptation

- After adding porch, example is now nonconforming:
 - 2650 ft² living space
 - No UOS
- Requirement is 795 ft² UOS
 - 30% of 2650 ft²
- $0 < 795$
 - Cannot create nonconformities



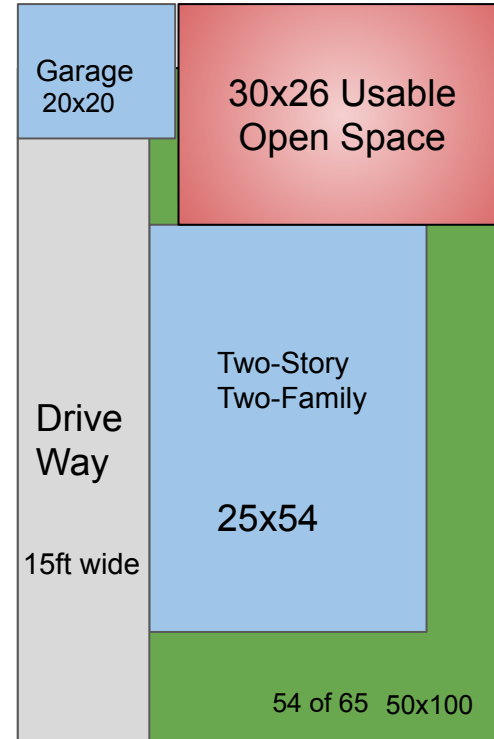
Why? Can prevent old building adaptation

- Attic expansion creates nonconformity:
 - 2800 ft² living space
 - 810 ft² UOS
- Requirement is 840 ft² UOS
 - 30% of 2800 ft²
- $810 < 840$
 - Cannot create nonconformities



Why? Unfair To Conforming Homes

- Example on the right is just barely **non**-conforming. Has:
 - 2700 ft² living space
 - 780 ft² UOS
- Requirement is 810 ft² UOS
 - 30% of 2700 ft²
- $780 < 810$
 - Non-conforming homes can dormer by right up 1/2 story



Why? Unfair To Homeowners

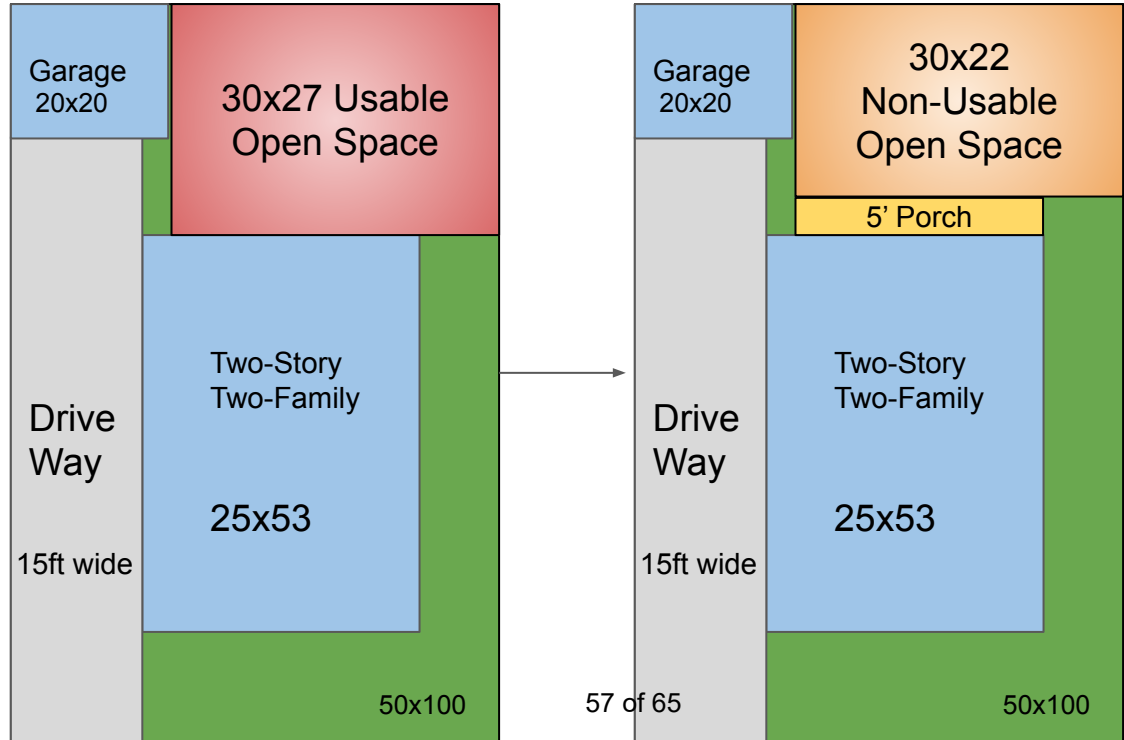
- Knowing in advance requires you to:
 - Understand all the details of the zoning bylaw
 - Measure the backyard of a house accurately
 - Measure the floor area of the house accurately
- Nobody does this.
- UOS should not prevent an owner making incremental additions as needs change.

Why Remove Instead Of Modify UOS?

- Options For Modification:
 - Reduce percentage from 30%
 - Reduce minimum dimension from 25ft
 - Base on lot area
 - (Combinations of above)
- No option solves the problems I'm trying to solve, without creating more problems

Example: Reduce %

- E.g. reduce requirement from 30% to 25%
- Here, porch could not be added because UOS is reduced to 0.

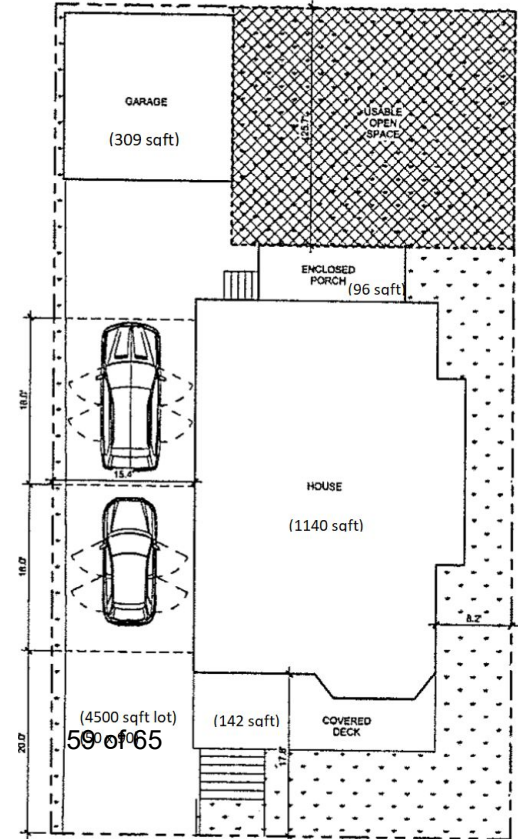


Why? “Usable” is Subjective

- Everyone has a different opinion on what “usable” means.
- “Usable Open Space” does not mean “green space”
- Homebuyers can choose not to buy a house if they don’t like the yard
- Homeowners know whether reducing yard space is acceptable for them

Why? Other Dimension Constraints

- Even removing UOS, home are still limited by:
 - Lot coverage (35%)
 - Front setbacks (20-25ft)
 - Side setbacks (10ft)
 - Rear setbacks (20ft)
- There will always be yard space.



Summary

- Proposal would remove Usable Open Space requirements for One- and Two- Family districts
- Other towns don't require it
- UOS can limit adapting old homes
- Other dimensional requirements keep development in check

Hello!

Please consider this additional supporting materials for the public hearing on March 13th 2023.

Best,

- James Fleming, 58 Oxford St

The Problem With Relaxing Usable Open Space Requirements

I considered ways of making the requirement less impactful, however no matter how I tried to modify the requirement, it created problems of its own.

Additionally, linked at the end of this doc is details of Medford's Usable Open Space provisions.

Reducing Dimensions

I considered reducing the dimensions to e.g. 20x20. However, this creates a problem:

Currently there are many nonconforming lots that do not comply with usable open space because they have no dimension greater than 25 feet. However, those currently non-conforming lots have the ability to dormer their attic. Under Section 8.1.3(A):

Alteration, reconstruction, extension, or structural change to a single or two-family residential structure that is completely within the existing foundation walls does not increase the nonconforming nature of said structure.

Shrinking this dimension makes it likely that some lots will come into conformance. If they come into conformity, they may find themselves unable to add a dormer without creating a new non-conformity; they might need a variance to do so, which they are unlikely to get. This may take away vested rights that the current property owners have.

Reducing Percentage

I considered reducing the percentage from e.g. 30% of GFA to a lower percent (e.g. 15%). However, this carries the same risk as above: that someone who is currently non-conforming becomes conforming and loses the ability to do something that they could currently do under Section 8.1.3(A).

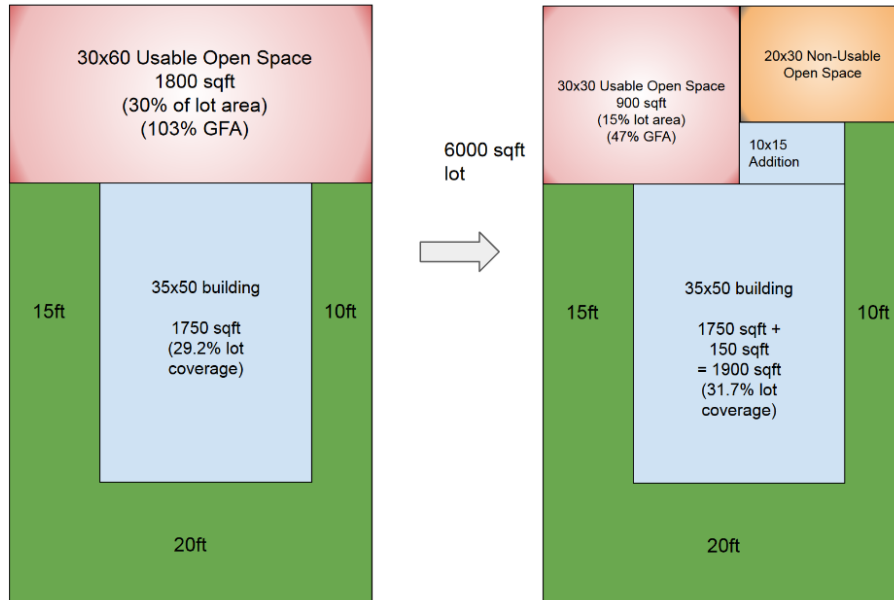
Make UOS not scale with GFA

I considered making Usable Open Space scale with the lot size, instead of the Gross Floor Area. While this has the effect of reducing the requirement for buildings with an FAR > 1, it increases the requirement for FAR < 1. Almost every 1F and 2F dwelling has an FAR < 1, so this would have the effect of making huge portions of Arlington out of conformance.

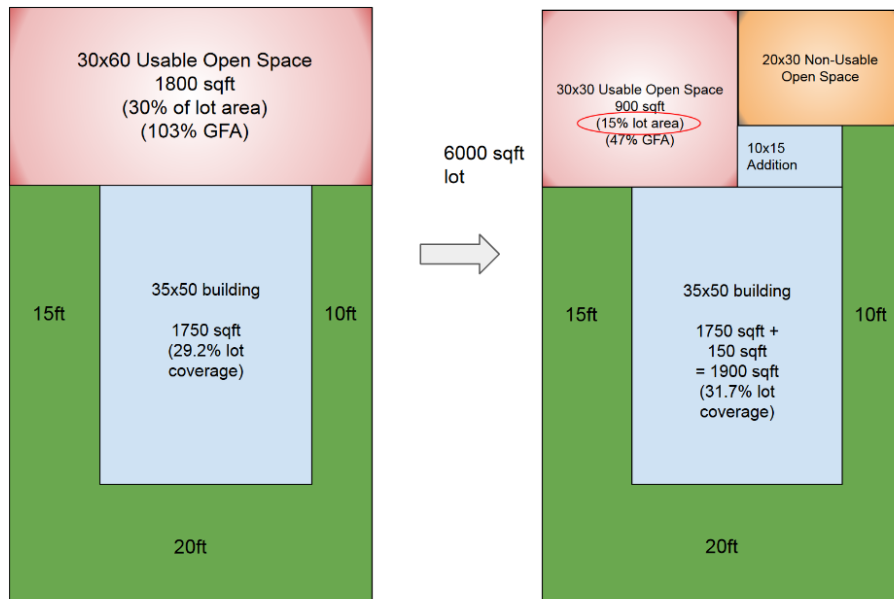
Example of Changing UOS to be based on Lot Area

The house below can add an addition by right; they remove UOS but still have enough to meet the requirement (30% of GFA). If we change UOS to be based on the lot area, the same house cannot add the same addition because it creates a new non-conformity.

Usable Open Space - 30% of GFA



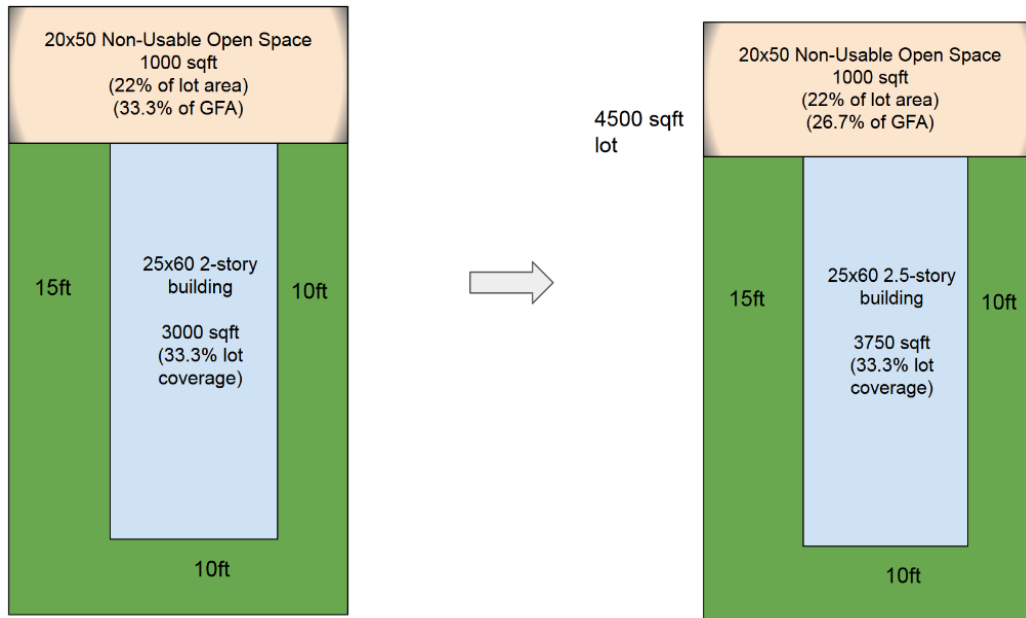
Usable Open Space - 30% of Lot Area



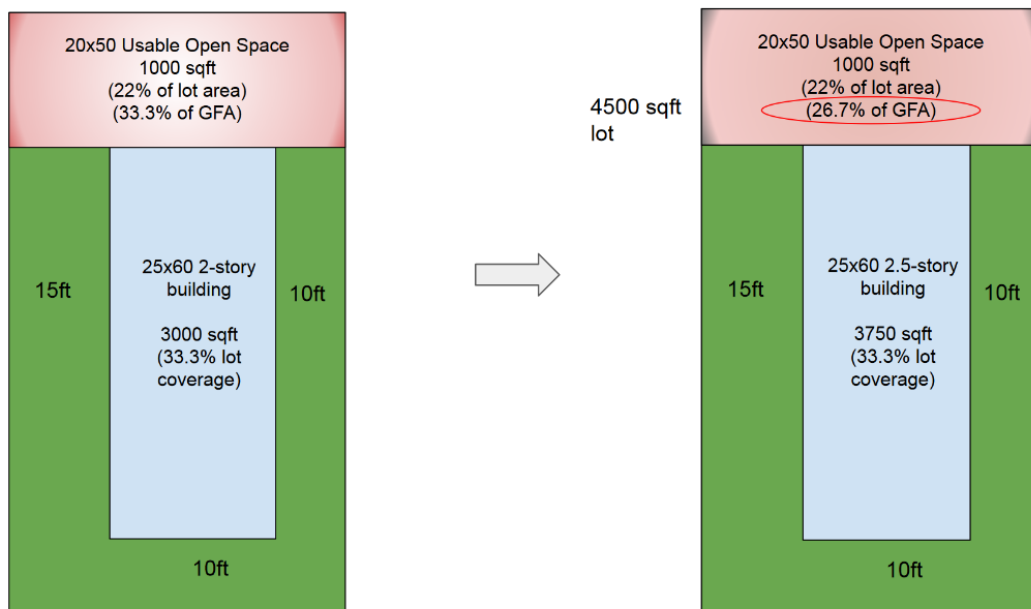
Example of Change UOS to have a different minimum dimension

Note that when changing to have e.g. a 20ft dimension, a previously conforming lot becomes conforming. Previously they could dormer their attic; now that they are conforming, the same dormer would take the UOS below 30% of GFA (circled in red), which creates a new nonconformity.

Usable Open Space - 25ft Dimension



Usable Open Space - 20ft Dimension



Medford Use Regulations For One- and Two-family dwellings, specifically Usable Open Space
https://library.municode.com/ma/medford/codes/code_of_ordinances?nodeId=PTIIREOR_CH94ZO_ARTIIVUSRE_DIV2DIRE_S94-171GEDIRE

Relevant excerpt, showing that Medford does not require Usable Open Space for one and two families

				MINIMUM PERMITTED							
				Lot				Open Space % Gross Floor Area		Yards (feet)	
				Area (square feet)							
				Per Dwelling Unit	Total	Frontage (feet)	Width (feet)	Depth (feet)	Landscaped	Usable	Front
1.	Detached single-family dwelling										
	(a)	In SF-1 districts		N/A	7,000	35	50	.55	N/A	N/A	15
	(b)	In all other districts		N/A	5,000	35	50	.55	N/A	N/A	15
2.	Detached two-family dwelling			N/A	6,000	35	60	60	N/A	N/A	15
3.	Attached single-family dwelling										
	(a)	End dwelling unit		N/A	3,500	35	.35	75	10%	25%	15
	(b)	Middle dwelling unit		N/A	2,500	25	.25	75	5%	25%	15
4.	Multiple dwelling				10,000	50	100	100	10%		H+L / 6 but at least 15
	(a)	1st and 2nd dwelling units, total		4,500						25%	
	(b)	Each additional dwelling unit									
	1)	On first three floors		1,000						25%	

Medford definition of usable open space

https://library.municode.com/ma/medford/codes/code_of_ordinances?nodeId=PTIIREOR_CH94ZO_ARTIINGE_S94-2DE

Open space means total lot area minus the first floor area of any building plus such roof and balcony spaces that are flat, enclosed by walls at least four feet in height and that have walls and floors of an opaque material.

Open space, usable means open space designed and available for the occupants of the lot for recreation or household service activities, such as clothes drying. Such space may not include lot area used for parking, loading, or access drives. Open space shall be deemed usable only if all of the following conditions apply:

- (1) *At least 75 percent of the area is at a grade of less than eight percent.*
- (2) *Each horizontal dimension is at least 15 feet, except for balcony space.*
- (3) *Such space is at least ten feet from any dwelling unit, except for space which is for the exclusive use of that dwelling unit, and at least ten feet from any lot line.*
- (4) *Such space is at least 75 percent open to the sky, except for balcony space.*